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MAR 26 2008

In re Application of	:	
Yamagashi et al.	:	
Application No. 09/605733	:	DECISION ON APPLICATION
Filed: 06/28/2000	:	FOR PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
09794353-0013	:	

This is a decision correcting a prior decision, mailed March 14, 2008, on the "Petition for Reconsideration of the Patent Term Adjustment Under 37 C.F.R. § 1.705(d)," filed October 1, 2007. The petition is properly treated under 37 CFR 1.705(b).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **CORRECTED TO THE EXTENT INDICATED HEREIN.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **sixteen hundred sixty-seven (1667) days**, including 1728 days of Office delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 29, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days.

On October 1, 2007, Applicants timely submitted the instant application for patent term adjustment¹. Applicants maintain that the period of adjustment pursuant to 37 CFR 1.702(a)(1) should be calculated based on the date of re-mailing of the non-final Office action. Applicants state that through no fault of the applicants the non-final Office action was not received.

The application history has been reviewed and it has been determined that the initial patent term adjustment for Office delay of 766 days is incorrect. The Office mailed an Office action under 35 U.S.C. 132 on October 3, 2003, fourteen months and 766 days after the date of filing of the application. However, the Office action was not mailed to the proper correspondence address of record due to Office error. The record supports a conclusion that the Office first mailed the

¹ PALM records show that the Issue Fee payment was received in the Office on October 1, 2007.


Office action by way of a letter restarting the period for reply to the correct address on May 22, 2006. (See PALM content records and applicant's response filed August 22, 2006). Accordingly, the Office's delay, pursuant to 37 CFR 1.703(a)(1), should be calculating using the May 22, 2006 date. Applicants are correct that the period of delay is 1728 days, counting the number of days in the period beginning fourteen months after the actual filing date of this application.

Submission of the \$200.00 fee set forth in 37 CFR 1.18(e) on initial petition for reconsideration of patent term adjustment is acknowledged. No additional fee is required.

Applicants are reminded that any days of delay for Office issuance of the patent more than 3 years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

The Publishing Division has been advised of this decision. The application is, thereby, being forwarded to the Publishing Division for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek L. Woods at (571) 272-3232.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Day : Tuesday
Date: 3/25/2008

PALM INTRANET

Time: 16:03:42

PTA Calculations for Application: 09/605733

Application Filing Date:	06/28/2000	PTO Delay (PTO):	766
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	1023
Post-Issue Petitions:	0	Total PTA (days):	1667
PTO Delay Adjustment:	1924		

File Contents History

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64	03/25/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		766	
61	03/14/2008	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
60	03/13/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	962		
53	06/29/2007	MAIL NOTICE OF ALLOWANCE			
52	06/26/2007	ISSUE REVISION COMPLETED			
51	06/26/2007	DOCUMENT VERIFICATION			
50	06/26/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	06/24/2007	NOTICE OF ALLOWABILITY			
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47	04/09/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
46	04/10/2007	DATE FORWARDED TO EXAMINER			
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37	02/07/2007	DATE FORWARDED TO EXAMINER			
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31	08/22/2006	RESPONSE AFTER NON-FINAL ACTION		962	14
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29	05/22/2006	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
28	05/19/2006	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
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25	05/18/2006	CASE DOCKETED TO EXAMINER IN GAU			
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21	04/26/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
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18	06/10/2004	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
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8	06/28/2000	REQUEST FOR FOREIGN PRIORITY (PRIORITY			

		PAPERS MAY BE INCLUDED)			
7	01/09/2001	APPLICATION DISPATCHED FROM OIPE			
6	12/18/2000	APPLICATION IS NOW COMPLETE			
5	12/15/2000	CORRESPONDENCE ADDRESS CHANGE			
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3	08/16/2000	CORRESPONDENCE ADDRESS CHANGE			
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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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